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In the Supreme Court of the United States

OCTOBER TERM, 1959.

No. 907

FEDERAL MARITIME BOARD, MARITIME ADMINISTRATION, CLARENCE G. MORSE, Maritime Administrator and FREDERICK H. MUELLER, Secretary of Commerce, *Petitioners*,

vs.

PACIFIC FAR EAST LINE, INC., MATSON NAVIGATION COMPANY, and UNITED STATES OF AMERICA, *Respondents*.

Memorandum of Matson Navigation Company

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MAY, 1960.

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TABLE OF AUTHORITIES CITED

Statutes	Page
Intercoastal Shipping Act, 1933, as amended, 46 U.S.C. 845a, 52 Stat. 964, Section 4	2
Merchant Marine Act, 1936, as amended, 46 U.S.C. 1223(a), 49 Stat. 2012, as amended, Section 805(a)	2

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Memorandum of Matson Navigation Company

Matson Navigation Company, a California corporation (hereinafter referred to as Matson), a respondent in this proceeding, joins with petitioners in urging that a writ of certiorari be granted to review the final judgment of the United States Court of Appeals for the District of Columbia Circuit entered February 4, 1960. Matson has filed a petition for a writ of certiorari to review the same judgment, in No. 906, October Term, 1959. The reasons for the granting of the writ set forth in Matson's petition in No. 906 are applicable to the granting of the writ sought in the present proceeding, No. 907.

One additional point should perhaps be referred to at this time. The petition in No. 907, in the course of demonstrating the error of the court below in its construction of Section 805(a) of the Merchant Marine Act, 1936, as amended, points to the application of the Intercoastal Shipping Act, 1933, as amended (Petition, p. 20). Section 4 of that Act requires carriers in the domestic Hawaiian trade, such as Matson, to charge just and reasonable rates and fares, and empowers the Federal Maritime Board, in case of a violation, to determine, prescribe, and enforce just and reasonable maximum or minimum, or maximum and minimum, rates or fares.

It is entirely clear that any unsubsidized United States flag steamship line is entitled to enter the Hawaiian domestic trade without any franchise or prior permission from governmental authority. It is equally clear that, having entered the trade, the carrier is subject to the restraints of the Intercoastal Shipping Act.

The court below, in reaching its own unique construction of Section 805(a), appears to have disregarded both of these fundamental propositions.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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